

# EXHIBIT 9

1 UNITED STATES DISTRICT COURT

2 FOR THE WESTERN DISTRICT OF NEW YORK

3 -----  
4 **BLACK LOVE RESISTS IN THE RUST, et al.,**  
5 **individually and on behalf of a class of**  
6 **all others similarly situated,**

7 Plaintiffs,

8 -vs-

1:18-cv-00719-CCR

9 **CITY OF BUFFALO, N.Y., et al.,**

10 Defendants.  
11 -----

12 **EXAMINATION BEFORE TRIAL OF RICHARD HY**

13 **APPEARING REMOTELY FROM**

14 **ERIE COUNTY, NEW YORK**

15  
16 July 19, 2023

17 9:58 a.m. - 5:37 p.m.

18 pursuant to notice  
19  
20

21 REPORTED BY:

22 Carrie A. Fisher, Notary Public

23 APPEARING REMOTELY FROM ERIE COUNTY, NEW YORK

-----**DEPAOLO CROSBY REPORTING SERVICES, INC.**-----

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**R E M O T E   A P P E A R A N C E S**

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APPEARING FOR THE DEFENDANTS:

**HODGSON RUSS LLP**  
**BY: PETER SAHASRABUDHE, ESQ.**  
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ALSO PRESENT:

**EVA LILIENFELD**, Law Clerk  
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**GIOVANNI SCARCELLA**, Law Clerk  
Covington & Burling LLP

**ANJANA MALHOTRA, ESQ.**  
National Center for Law  
and Economic Justice

—**DEPAOLO CROSBY REPORTING SERVICES, INC.**—

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~~RICHARD HY~~

1 Go ahead.

2 A. The checkpoint would have a number of cars in  
3 the center of the street or on the side with  
4 lights on so that we could be visible from a  
5 long distance away, and vehicles would drive  
6 up to an officer in the center of the road or  
7 in that specific lane of travel. And the  
8 officer would identify vehicle and traffic  
9 violation; for example, bald tires or somebody  
10 not wearing a seat belt or specifically  
11 registration and inspections that were  
12 expired, and then they would issue a ticket  
13 for those violations.

14 If there were no violations seen, then  
15 the vehicle was just told to carry on. Often  
16 people would ask us, you know, what was the  
17 checkpoint for. We'd say inspection,  
18 registration, seat belt checks, and then they  
19 would carry on with their day.

20 Q. Were inspection and registration violations a  
21 focus for the Strike Force?

22 A. Yes.

23 MR. SAHASRABUDHE: Objection to form.

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~~RICHARD HY~~

1 Q. Why is that?

2 MR. SAHASRABUDHE: Objection to form.

3 A. I -- I'm not sure what you're asking is why is  
4 what?

5 Q. Did your superiors inform you that inspection  
6 and registration violations were a focus for  
7 the Strike Force?

8 A. Yes.

9 Q. And did they tell you why they -- the Strike  
10 Force had that focus?

11 A. I don't remember if they gave us specific  
12 guidance as to why that was. I just don't  
13 remember. I'm sorry.

14 Q. That's okay. That's fine to not remember.

15 As a Strike Force officer, what was your  
16 role in the checkpoints?

17 A. Usually when an officer that was in that  
18 center lane or on the specific lanes of travel  
19 saw a violation and then was going to go write  
20 up that vehicle, that officer would take the  
21 identification of the person, tell them to go  
22 park to the side, and then create that traffic  
23 summons. They would then get replaced by an

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~~RICHARD HY~~

1 officer that was not doing that.

2 So if you can imagine kind of like a  
3 circular diagram where you have an officer at  
4 the checkpoint, sees a violation, stops the  
5 vehicle, issues the summons, and then returns  
6 to that point to check more vehicles. In that  
7 circle you're having other officers replace  
8 the officer that steps off the line. So  
9 that's kind of I guess the way that you would  
10 describe it is a round-robin kind of rotating  
11 who is up next to start seeing which  
12 violation, if any, there are in the oncoming  
13 traffic.

14 Q. So just to make sure I understand correctly,  
15 if an officer stopped a driver at a checkpoint  
16 initially, they would continue to engage with  
17 that driver throughout the driver's duration  
18 at that checkpoint?

19 A. It could be that singular officer that saw  
20 that or it could be their partner that was  
21 next to them that also viewed the violation.  
22 So you could have an instance where myself and  
23 a partner -- we will say Officer Pitts was my

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1 understand that if I use that term?

2 A. Yes.

3 Q. Okay. So in what instances would a motorist  
4 be referred to a secondary inspection?

5 MR. SAHASRABUDHE: Objection to form.

6 Go ahead.

7 A. Well, I'm not sure what you mean by "a  
8 secondary inspection."

9 Q. All right. So when you noticed a violation,  
10 what would you do with that motorist?

11 A. Oh. If we were at a checkpoint and I was the  
12 officer in the middle of the road or in those  
13 lanes of travel and I saw an infraction for a  
14 vehicle driving up, let's say an inspection  
15 because they're so easy to see with the  
16 different color and obviously the big hole in  
17 the middle of the month, I would say: "Hey,  
18 how you doing today? My name is Officer Hy,  
19 Buffalo Police Department. Hey, what's going  
20 on with the inspection? Your inspection is  
21 overdue."

22 And I would make a conversation with the  
23 driver to see if they were aware of it. And

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1           then I would ask them for their ID, and then I  
2           would ask them to pull over to the side of the  
3           road. And then I would walk over to them and  
4           I would continue my conversation about the  
5           inspection sticker and any other violations  
6           that I might have seen.

7           Q. Were there any violations for which it was not  
8           necessary to have a motorist pull over to the  
9           side of the road to continue that interaction?

10                   MR. SAHASRABUDHE: Objection to form.

11           A. I don't know what that means.

12           Q. So you mentioned that -- for example for an  
13           inspection sticker, if you noticed a  
14           violation, you would have them pull over to  
15           continue the interaction with the motorist; is  
16           that -- that's correct? Am I understanding  
17           that right?

18           A. I think so. I want to make sure. You're  
19           saying that if I saw an infraction, I would  
20           ask them to pull over and then we would  
21           continue our conversation?

22           Q. Yes. Is that correct?

23           A. Yes, that is correct.

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~~RICHARD HY~~

1 Q. And was there any violation, any violation for  
2 which you didn't ask them to pull over; it  
3 wasn't necessary to engage in that secondary  
4 stop on the side?

5 A. I have seen --

6 MR. SAHASRABUDHE: Objection to form.

7 A. I've seen violations before and then still  
8 told people to, you know, carry on, like bald  
9 tires or people that were on their way to get  
10 the vehicle inspected and they were able to  
11 provide a, like a -- not a receipt but like a  
12 handbill stating they were scheduled for  
13 something at like Dunn Tire. But every time I  
14 saw an infraction I didn't always issue a  
15 ticket, if that's what you're asking.

16 Q. How did you determine when you would issue a  
17 ticket and when you wouldn't if you saw an  
18 infraction?

19 A. Oh geez, there were a lot of factors involved  
20 in that.

21 Q. What factors?

22 A. Like you're able to look up a person's history  
23 when you're writing a ticket. So if I'm

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1 Q. In addition to being aware of that, do you  
2 recall any concrete steps that you were  
3 instructed on taking to -- in light of -- in  
4 light of the possibility of interacting with  
5 minority communities?

6 MR. SAHASRABUDHE: Objection to form.

7 A. Could you say that again?

8 Q. Sure. You mentioned that the -- you had  
9 conversations about the awareness of policing  
10 in minority neighborhoods, correct?

11 A. Yes.

12 Q. Did those conversations include any sort of  
13 concrete steps or action items that you could  
14 take to improve policing in those minority  
15 neighborhoods?

16 MR. SAHASRABUDHE: Objection to form.

17 A. From what I remember, it was more of an  
18 understanding of seeing things -- I'm being  
19 very general here, of seeing things through  
20 other people's eyes and experiences that  
21 others may have are not your own and to treat  
22 everybody as an individual and not, you know,  
23 specifically based on, you know, like race,

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1 color, creed, etcetera. You're supposed to be  
2 kind of blind to what makes up the individual  
3 and more open up to listening to the  
4 individual.

5 Q. Did you have any specific concerns about  
6 policing in neighborhoods of color?

7 A. No.

8 MR. SAHASRABUDHE: Objection to form.

9 Q. Did you feel you were adequately prepared by  
10 the BPD to do so?

11 MR. SAHASRABUDHE: Objection to form.

12 A. Yes.

13 Q. And was that preparation in virtue of that one  
14 training you're mentioning, or were there  
15 other things that you feel prepared you to do  
16 that type of policing?

17 MR. SAHASRABUDHE: Objection to form.

18 A. Specifically the field training program that  
19 not only the law -- Erie County Law  
20 Enforcement Academy puts you through but also  
21 the City of Buffalo, Buffalo Police  
22 Department's field training program.

23 Q. Would you describe that field training program

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1 in more detail?

2 A. So the similarities between the Erie County  
3 Law Enforcement and the City of Buffalo's  
4 field training program are that you are  
5 embedded with your department, whoever you're  
6 going to be working for, whoever has hired  
7 you. For a certain period of time we are  
8 doing the left see, right see where there is a  
9 field training officer, usually a senior  
10 officer who's got -- who's gone through some  
11 field officer training so they're not just a  
12 normal patrolman but a normal patrolman that's  
13 also been -- gone through a course in how to  
14 guide, mentor the next generation of police  
15 officers.

16 And you go to calls, you're evaluated by  
17 your first-line lieutenants and leaders and in  
18 this on-the-job experience you get to learn,  
19 see, and digest how your field training  
20 officer, and you can jump around from one to  
21 the other and go to different districts, deals  
22 with or interacts with different members of  
23 the community, race, color, creed, religion,

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1           you know, ethnic background, all of these  
2           things you get to see in person.

3           Q. Were you ever a field training officer while  
4           in the BPD?

5           A. No. No, not yet. I was in the academy, but I  
6           wasn't a field training officer.

7           Q. And when you participated in that field  
8           training program, do you recall being  
9           instructed on racial bias or racially biased  
10          policing in any way?

11                   MR. SAHASRABUDHE: Objection to form.

12          A. No.

13          Q. But you mentioned that you do feel that the  
14          field training program adequately prepared you  
15          to police in Buffalo's neighborhoods of color?

16                   MR. SAHASRABUDHE: Objection to form.

17          Q. Is that correct?

18          A. Yes.

19          Q. So do you feel that there is not any specific  
20          racial bias training necessary to adequately  
21          prepare you to police in Buffalo's  
22          neighborhoods of color?

23                   MR. SAHASRABUDHE: Objection to form.

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